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In re Application of	:	
BASSET et al.	:	
Application No.: 09/737,269	:	
PCT No.: PCT/US99/13406	:	
Int. Filing Date: 14 June 1999	:	DECISION
Priority Date: 15 June 1998	:	
Attorney Docket No.: 17844-1	:	
For: ALKALI SOLUBLE LATEX	:	
THICKENERS	:	

This decision is in response to applicant's submission filed 15 July 2002 requesting, in effect, that the instant application be treated as a national stage filing of international application number PCT/US99/13406, which has been treated as a petition under 37 CFR 1.181

#### BACKGROUND

On 14 June 1999, applicant filed international application PCT/US99/13406, which claimed a priority date of 15 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to nineteen months from the filing date of the international application. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 December 2000.

On 14 December 2000, applicant filed, *inter alia*, a transmittal letter, a declaration of inventors, a filing fee of \$710.00 and an authorization to charge additional fees to Deposit Account No. 21-0100. The application was processed as a filing under 35 U.S.C. 111(a).

On 13 August 2001, the USPTO mailed a NOTICE TO FILE CORRECTED APPLICATION PAPERS, FILING DATE GRANTED, granting the application a filing date of 14 December 2000 and requiring an abstract.

On 10 September 2001, applicant submitted a "RESPONSE TO FILE CORRECTED APPLICATION PAPERS" which was accompanied by an abstract.

On 24 April 2002, the USPTO mailed a first office action on the merits.

On 15 July 2002, applicants submitted the instant submission filed 15 July 2002 requesting, in effect, that the instant application be treated as a national stage filing of international application number PCT/US99/13406, which has been treated as a petition under 37 CFR 1.181

On 23 August 2002, the USPTO mailed a final rejection.

### DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

\* \* \*

To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.

Alternatively, one of the following indications may be used:

- 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
- 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the described in the identified international application.

The declaration filed with the originally submitted application papers identified the specification to which it was directed as the specification which "was filed on 06/14/99 as . . . PCT International Application Number PCT/US99/13406 and was amended on 07/06/2000." Accordingly, the application will be treated as a national stage application of PCT/US99/13406 submitted under 35 U.S.C. 371. There were no conflicting instructions.

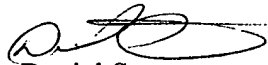
Since the application was processed under 35 U.S.C. 111, applicant was charged the fees for an application filed under 35 U.S.C. 111 rather than the fees for an application filed under 35 U.S.C. 371. The fees have been corrected. As a result of these corrections, the amount of \$150 (which is equal to the difference between the basic filing fee under 35 U.S.C. 111 and the basic national fee under 35 U.S.C. 371) has been charged to Deposit Account No. 21-0100.

It is noted that the requirements of 35 U.S.C. 371 were complied with as of 14 December 2000.

CONCLUSION

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for processing the application as a national stage application of PCT/US99/13406 and for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c) date of **14 December 2000** and issuance of a corrected filing receipt. The application will then be forwarded to Art Unit 1713.



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